

**State of Indiana  
Department of Natural Resources  
Division of Water**

**Department Memorandum**

**Date: January 30, 2009**

**To: Natural Resources Advisory Council  
From: Division of Water**

**Re: AGENDA ITEM February 11, 2009  
Natural Resources Advisory Council Meeting**

**Consideration of Hearing Officer Report in Preparation for Advisory Council Summarizing Public Meetings and Making Recommendations to the Natural Resources Commission Regarding Request by Patoka Lake Regional Water & Sewer District for a Modified Water Sale Contract Under IC 14-25-2 and 312 IAC 6.3; Administrative Cause No. 09-030V**

The Division of Water will report to the Advisory Council, during its February meeting, concerning the results of multiple public hearings held under IC 14-25-2 and 312 IAC 6.3. The hearings reviewed a request by Patoka Lake Regional Water & Sewer District for an amended contract for the provision of minimum quantities of stream flow or for the purchase of water, on a unit pricing basis, from Patoka Lake. Attached is a memorandum which outlines the public hearings held by the Division of Water on behalf of the Advisory Council. The substance of the memorandum is recommended to the Advisory Council as its report to the Commission.

**State of Indiana  
Department of Natural Resources  
Division of Water**

**Department Memorandum**

**Date: January 28, 2009**

**To: Natural Resources Commission**

**From: Natural Resource Advisory Council**

**Subject: Summary of Public Meetings held for contract application  
PWS-09-2 between Patoka Lake Regional Water & Sewer District and the  
State of Indiana for withdrawal of water from Patoka Lake for water supply  
purposes.**

The State of Indiana is authorized under Indiana Code 14-25-2 to sell water on a unit pricing basis for water supply purposes or low-flow augmentation from the water supply storage in reservoir impoundments, or portions of the impoundments that are financed by the State. The Department of Natural Resources, Division of Water, acts as administrator for these contracts. The provisions of IC14-25-2 and Rule 312 IAC 6.3 require that a written application for contract request be submitted to the Division, and that public meetings be held to gather testimony on the request. The Division director shall appoint a Department employee to serve as hearing officer for the meetings. No longer than thirty (30) days after a public meeting is held, the Advisory Council shall submit to the Commission a report summarizing the public meeting.

**Contract Request Summary**

The Patoka Lake Regional Water & Sewer District (the District) has held a contract with the State of Indiana for water supply from Patoka Lake since 1977. The contract was amended in 1993, raising the limit from five (5) MGD to the present limit of twenty (20) MGD. At that time an analysis was conducted to estimate yield and recreational impacts. The evaluation indicated that a twenty (20) MGD withdrawal by the District would potentially render recreation unavailable one (1) in every forty (40) years, and for a single month one (1) in every eight (8) years. The analysis states this estimate to be conservative, and that the actual impact on recreational use could be less. It should also be noted that since this contract's initial approval in 1977, and subsequent amendment in 1993, no adverse impacts on recreational use have been documented. The contract with Patoka Lake Regional Water & Sewer district represents average annual revenue of over \$80,000.

In accordance with Rule 312 IAC 6.3-3-1, a written request submitted to the Division of Water must include the following information:

- 1) Contract Applicant:** Patoka Lake Regional Water & Sewer District
- 2) Use of Water:** Public Water Supply
- 3) Contract Request:** Addition of 15 years to current term to restore existing contract to fifty (50) years to satisfy bonding requirements to enable the District to expand rural water supply services
- 4) Withdrawal Limit:** 20 MGD (unchanged)
- 5) Location of Withdrawal:** Existing Intake Structure on Patoka Lake
- 6) Method of Measurement:** Flow Meter
- 7) Summary of Alternatives & Justification:** Patoka Lake is the most economic and feasible supply of water to the counties Patoka Lake Regional Water & Sewer District provides water.
- 8) Contingency Planning:** Agreement to withstand result of not being able to withdraw water in times of drought or other emergency, per the water allocation factors in 312 IAC 6.3-4-1
- 9) Conservation Planning:** As specified in contractual agreements with existing water purveyors

#### **Patoka Lake Available Water Supply Storage**

Total water supply storage volume in Patoka Lake is estimated to be 167,300 acre-feet between elevations 536 and 506 feet, National Geodetic Vertical Datum, 1929 adjustment, measured at the dam. The State of Indiana has the right to 77.5% of this total water supply storage, an amount equal to 129,643 acre-feet. The remaining 37,643 acre-feet is owned by the United States Army Corps of Engineers. A 1993 analysis by the Division of Water calculated that the reservoir could provide a firm yield of 78 Million Gallons per Day (MGD) with no release of water by the Corps of Engineers for water quality purposes. Yield from the reservoir would be reduced to 68.2 MGD with releases from federal water supply storage.

### **Public Meeting Summary and Public Comment**

Public meetings were conducted by Division of Water Personnel Mark Basch and Monique Riggs in the following ten (10) counties, as required by IC 14-25-2-2.5(h) and 312 IAC 6.3-3-3, to gather testimony on the application for Contract Number PWS-09-2 between Patoka Lake Regional Water & Sewer District and the State of Indiana:

- January 5, 2009 - Gibson, Pike, and Daviess Counties;
- January 6, 2009 - Warrick, Spencer, and Dubois Counties;
- January 13, 2009 - Washington and Orange Counties; and
- January 20, 2009 - Perry and Crawford Counties.

Each meeting began with introductions, followed by a brief presentation outlining the provisions of IC 14-25-2 and Rule 312 IAC 6.3 which govern the Department's authority to enter into water supply contracts. Available water supply data was provided for Patoka Lake, as well as established water supply priorities, the nature of the pending request and application specifics, factors the commission may consider during review and acting upon a request, and the process by which the commission makes a determination to deny, condition, or approve a contract. The presentation was followed by a period to answer questions and allowed for public comment on the pending request.

**Public participation at the ten meetings consisted of a total of six (6) persons: The sign-up sheets provided at the meetings indicated 4 persons in support of the contract renewal, 0 against, 1 with no opinion, and 1 person that did not indicate a position.** In addition to these six participants, Patoka Lake Regional Water & Sewer District was represented at each meeting by Mike Phillips, General Counsel, and/or Bruce Heeke, Water Superintendent. A letter of support for the pending contract submitted by Edwin Pieper, President, is attached. In addition to the letter of support from Patoka Lake Regional, the following two verbal comments were expressed about the pending contract request:

- Michael Johanness from Holiday World in Santa Claus, IN expressed appreciation for the consistent provision of water to the Town and the facility by the Patoka Lake Regional Water & Sewer District. Also expressed was a concern whether Santa Claus, IN would have sufficient water supply should Patoka Lake Regional Water & Sewer District no longer be able to provide water to rural county residents, or to Holiday World, specifically.
- The Washington County Attorney, Tom Scifres, attended. His interest was that wholesale water is provided in the county by Patoka Lake Regional Water & Sewer District, and is distributed through county & local utilities. His view was favorable.

**Conclusions and Recommendations:**

This new contract request represents the addition of fifteen (15) years to the remainder of the current contract term between the Patoka Lake Regional Water & Sewer District and the State of Indiana which would allow the District to meet federal financing requirements to extend water supply to rural Orange County. All other provisions of the current contract remain unchanged. Division of Water staff believe that the volume of water available for water supply in Patoka Lake is adequate to satisfy the daily withdrawal of twenty (20) MGD for the fifty (50) year term of the contract. In addition, domestic water supply has been designated by 312 IAC 6.3 as a first priority use of available water supplies in reservoirs owned by the State, and potential impacts to recreational use of the reservoir is expected to be minimal. The Advisory Council recommends to the Commission that the request by the District be granted. The Advisory Council also recommends the contract be modified to provide rural water supply to Orange County, and the duration of the contract be set for a date fifty (50) years after the date of approval by the Governor of Indiana, as more specifically set forth in the memorandum from the Department's Division of Water.